

U.S. Department of
Homeland Security

United States
Coast Guard



Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
1998 Biennial Regulatory Review -- Review of) IB Docket No. 98-96
Accounts Settlement in the Maritime Mobile)
and Maritime Mobile-Satellite Radio Services)
and Withdrawal of the Commission as an)
Accounting Authority in the Maritime Mobile)
and Maritime Mobile-Satellite Radio Services)
)
To: The Commission

COMMENTS OF UNITED STATES COAST GUARD

The United States Coast Guard, pursuant to Section 1.415 of the FCC's Rules, 47 C.F.R. § 415, hereby submits these Comments in the above-referenced Second Further Notice of Proposed Rulemaking (FNPRM) proceeding. *See Federal Communications Commission, 1998 BIENNIAL REGULATORY REVIEW OF ACCOUNTS SETTLEMENT IN THE MARITIME MOBILE AND MARITIME MOBILE-SATELLITE RADIO SERVICES*, 82 Fed. Reg. 4269 (January 13, 2017).

I. Background and Statement of Interest

A. The United States Coast Guard: Its History and Mission

The United States Coast Guard is one of the five branches of the United States Armed Forces. The Coast Guard is a maritime, military, multi-mission service unique among the U.S. military branches for having a maritime law enforcement mission (with jurisdiction in both domestic and international waters) and federal regulatory agency statutory obligations. The Coast Guard operates under the U.S. Department of Homeland Security during peacetime, and can be under the supervision of the U.S. Department of the Navy during times of war or when directed by the President.

Created by Congress in 1790 at the request of Alexander Hamilton as the "Revenue Marine," the Coast Guard is the oldest continuous seagoing service of the United States. As Secretary of the Treasury, Hamilton headed the Revenue Marine, whose original purpose was as the collector of customs duties in the nation's seaports.

The modern Coast Guard was formed by a merger of the Revenue Cutter Service and the U.S. Life-Saving Service in 1915, under the U.S. Department of the Treasury. As of 2015, the Coast Guard had approximately 40,000 men and women on active duty, 7,400 reservists, 30,000 auxiliary, and 7,000 full-time civilian employees. In terms of overall size, the Coast Guard by itself is the world's 12th largest naval force.

The Coast Guard's legal authority differs from the other four armed services, as it operates simultaneously under Title 10 of the U.S. Code and other statutory authorities, such as Titles 6, 14, 19, 33, and 46. Because of its legal authority, the Coast Guard can conduct military operations under the U.S. Department of Defense or directly for the President in accordance with Title 14 U.S.C. §§1–3. The Coast Guard's enduring roles are maritime safety, security, and

stewardship, all of which are implicated to some extent in this FCC rulemaking proceeding. To carry out those roles the Coast Guard has 11 statutory missions as defined in 6 U.S.C. § 468, which include enforcing U.S. law in the world's largest exclusive economic zone of 3.4 million square miles (8,800,000 km). The Coast Guard's motto is the Latin phrase, *Semper Paratus* (Always Ready), which succinctly states the overall mission of the Coast Guard.

Search and Rescue (SAR) is one of the Coast Guard's oldest missions. Minimizing the loss of life, injury, property damage or loss by rendering aid to persons in distress and property in the maritime environment has always been a Coast Guard priority. Coast Guard SAR response involves multi-mission stations, cutters, aircraft and boats linked by extensive communications networks. The National SAR Plan divides the U.S. area of SAR responsibility into internationally recognized inland and maritime SAR regions. The Coast Guard is the Maritime SAR Coordinator. To meet this responsibility, the Coast Guard maintains Maritime Rescue Coordination Center (MRCC) facilities on the East, West and Gulf coasts; in Alaska, Hawaii, Guam, and Puerto Rico, as well as on the Great Lakes and inland U.S. waterways. The Coast Guard is recognized worldwide as a leader in the field of search and rescue.

B. Coast Guard and Emergency Maritime Communications

Being able to communicate with, and obtain the accurate location of, a mariner in distress is critical to search and rescue on the water. The International Maritime Organization (IMO) has established various means of emergency communications used for this purpose, such as Rescue 21's channel 16 very high frequency (VHF) system, high frequency digital selective calling operated by the Coast Guard, and others which depend upon accounting authorities for their operation. Coast Guard MRCCs depend upon these systems for receiving distress and safety alerts from ships and for distress and safety communications with ships.

Two such accounting authority-dependent systems recognized under IMO's Global Maritime Distress and Safety System (GMDSS) are the Inmarsat C and the Inmarsat Fleet-77 terminals.

C. Accounting Authority-Dependent Emergency Maritime Communications Systems

Maritime accounting authorities were established on an international basis to provide a means for ships to pay for ship-to-shore calls through public coast stations for which no practical payment alternative exists. *See, e.g., FNPRM* at ¶ 4. These were later expanded to include maritime mobile satellite services, especially services which use land earth stations not owned or operated by the mobile satellite provider. As noted in the *FNPRM*, accounting authorities were included in the GMDSS. *Id.* at ¶ 18.

Due to the closures of most public coast stations worldwide,¹ and because most newer mobile satellite services operate their own land earth stations², the greatest need for continuing with accounting authorities is for legacy mobile satellite systems capable of operating through independently-owned land earth stations. Two such systems are the GMDSS-recognized Inmarsat-C and the Inmarsat Fleet-77³. With the on-going phaseout of the Fleet-77, the Inmarsat-C will soon be the sole GMDSS mobile satellite system⁴ used on ships until and unless IMO recognizes new mobile satellite systems (such as Iridium) in the GMDSS.

¹ ShipCom LLC is the only known high frequency (HF) public coast station still operating in the U.S. No U.S. very high frequency (VHF) public coast stations are known to be operating.

² For example, Iridium and Inmarsat's Fleet Broadband operate their own land earth stations.

³ The International Mobile Satellite Organization notified IMO concerning Inmarsat's intention to close the Inmarsat-F77 service by 1 December 2020 (IMO document NCSR 3/19/1).

⁴ Not including the COSPAS-SARSAT satellite emergency position-indicating radiobeacon (EPIRB), whose alerts are also routed through a mobile satellite system.

II. Summary of Proposed Maritime Accounting Rule Revisions

In its *FNPRM*, the FCC has proposed to transition the functions and duties performed by the Commission as a maritime accounting authority to private accounting authorities. In doing so, the FCC revisits its findings in the 1999 Report and Order and Further Notice of Proposed Rulemaking (*1999 Accounting Authority Order & FNPRM*),⁵ which included the Commission's decision that it should withdraw as an accounting authority in the maritime mobile and maritime mobile-satellite radio services. The Coast Guard participated in that rulemaking proceeding due to the implications for maritime safety; it is again actively participating in the current rulemaking proceeding for the same reasons.

In general terms, the FCC seeks comment on whether and how it should withdraw from performing the functions of an accounting authority, and "leave the settlements of accounts to the private accounting authorities" *FNPRM* at ¶ 8. Unlike in 1999, when the FCC first proposed to withdraw from performing accounting functions and suggested a three-year transition period, the FCC today proposes a one year transition period, under the assumption that "maritime operators are far better prepared [today] to adjust to the departure of the Commission as the accounting authority." *Id.* at ¶ 9. The FCC states that "[t]hrough outreach and coordination with Inmarsat, the recognized provider of Global Distress and Safety System mobile satellite services to mariners, Commission staff have learned that many of those entities using the Commission's accounting authority services have anticipated the change, and they have initiated a transition process in contracting by other means." *Id.*

⁵ 1998 Biennial Regulatory Review -- Review of Accounts Settlement in the Maritime Mobile and Maritime Mobile-Satellite Radio Services and Withdrawal of the Commission as an Accounting Authority in the Maritime Mobile and the Maritime Mobile-Satellite Radio Services, *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 20703 (1999) (*1999 Accounting Authority Order & FNPRM*).

III. Coast Guard Comments on FCC Proposals

The FCC's proposal is of keen interest to the Coast Guard because the withdrawal of the FCC as an accounting authority would require U.S. international ship and satellite operators currently handled by the Commission to select an alternative accounting authority. Moreover, the Coast Guard itself is a user of the FCC's accounting services. It is of fundamental importance to the maritime public that, if the FCC proceeds with its plan, it do so in a manner that will not adversely impact maritime safety.

A. Notice and Knowledge of the FCC's Plan

One of the core areas of concern to the Coast Guard is the ability of the FCC to notify all parties and persons that will be impacted by this plan of the need to make appropriate accommodations for such a significant change in U.S. maritime accounting practices. While it is true that most other nations have required individual ships to settle their accounts with their telecommunications provider; since 1934, the Commission has acted as the accounting authority "of last resort" in the United States, settling accounts for maritime and hand-held terminal radio services to private users and government agencies.

The Coast Guard has no reason to doubt the FCC's assertion that "most maritime mobile satellite users will be able to accommodate this change, and that they will act accordingly in cooperation with their mobile satellite services provider to reasonably select an alternative means of settling accounts in a timely manner." *FNPRM* at ¶ 9. What remains unclear; however, is how the FCC will accommodate those users who are completely unaware of the FCC's plans. For instance, as the FCC observed, "users of maritime public coast stations may have more difficulty in finding other means of settling accounts" even though with each passing year there are fewer such users due to the closure worldwide of public coast stations. *Id.* at ¶ 16.

In light of these facts, the FCC's proposal for a one year transition period may be the absolute minimum amount of time necessary to properly notify all affected users, while providing them with sufficient time to make alternative plans. Moreover, it would be helpful to know precisely how the FCC intends to convey the substance of its plan to all interested parties, particularly those who do not currently have contractual arrangements with Inmarsat or other recognized private accounting authorities.

For its part, the Coast Guard will certainly employ whatever resources are at its disposal to help inform the maritime community of the FCC's plans as they are finalized. Examples of how the Coast Guard can be of assistance to the FCC in this regard include the issuing of a Marine Safety Alert describing the FCC's proposal.

B. Public Interest Issues

The FCC has concluded that the "function of an accounting authority is not necessarily a governmental function, but can be performed equally well by privately owned entities, subject to Commission oversight under our Part 3 rules." *FNPRM* at ¶ 8. The FCC states that even if it withdraws from providing accounting functions, it would "reserve authority to investigate or respond to complaints of any privately owned accounting authority to ensure that their practices are non-discriminatory and that they do not engage in unreasonable pricing practices."

Although the Commission suggests that marketplace competition between privately owned accounting authorities ought to suffice to guard mariners against anti-competitive conduct, *Id.*, there is scant record evidence of a competitive market for these accounting services, at least in the maritime sector. For instance, the International Telecommunications Union (ITU) listing of U.S.-notified accounting authorities is out of date, listing entities that no longer exist or

no longer provide such services.⁶ Inmarsat will presumably continue to provide maritime accounting services for its paying customers, as will others such as COMSAT Inc. and Mackay Communications Inc., who are known to provide these services to their customers. Nevertheless, it is unclear what other entities would have any financial incentive to step forward and provide maritime accounting services at reasonable costs and on non-discriminatory terms and conditions.

Assuming the FCC's assumptions to be correct (that marketplace competition will materialize and keep billing and accounting costs in check), before it relinquishes its current role as accounting authority of last resort, the FCC should articulate precisely what procedures will be put in place for mariners to file complaints with the FCC. As the rules now stand, there are no formal procedures for mariners to follow should they encounter unreasonably high costs of billing/accounting services, or suffer from discriminatory practices, should the FCC adopt its plan to turn over accounting to private entities. The FCC should also review its list of entities it has approved as maritime accounting authorities, confirm whether or not they are still active as accounting authorities, and notify the ITU of any necessary corrections to that list.

C. Public Safety Implications

The FCC's proposal to withdraw as accounting authority has direct implications for a range of maritime communications services that have public safety functions. For instance, many mariners have "Inmarsat-C" terminals on their vessels to meet IMO/FCC/USCG regulatory requirements with respect to Global Maritime Distress & Safety System (GMDSS), Ship Security and Alerting System (SSAS), and Long Range Identification Tracking (LRIT) services. Although only GMDSS has a distress alerting function for which no charges can be

⁶ See http://www.itu.int/online/mms/mars/aaic_search.sh; enter Country Symbol "US" and Submit Query.

assessed⁷, each of these services is deemed an essential maritime safety requirement by the IMO. In other words, akin to Emergency 911 services in the United States, maritime communications service providers must accept at no charge all maritime distress calls made over the GMDSS distress alerting channel, even if they have no /accounting/billing arrangements with the calling party. Because of LRIT, SSAS and GMDSS regulatory requirements and safety functions, and since they did not intend to accrue telecommunications charges with the Inmarsat terminal, many vessel owners have commissioned their terminals with the FCC as accounting authority with no service contract or other means for paying communications charges.

Once the FCC withdraws as accounting authority, unless the terminal owner makes some arrangements with a billing/accounting authority, and then recommissions their satellite terminal, all of these safety services except distress alerting would be barred by Inmarsat once a telecommunications charge is incurred, to the Coast Guard's understanding. For instance, although SSAS is a "piracy alert" service, it is deemed "commercial" by Inmarsat; hence, without any accounting authority in place, Inmarsat would no longer support SSAS service for a given terminal once an SSAS alert was initiated that incurs a charge. Similarly, with respect to LRIT services, while availability of the service itself is not charged to the ship, the airtime usage is charged as a commercial service. Inmarsat treats LRIT as a commercial service, it is not deemed distress communications; hence, with no accounting authority in place, that service, too,

⁷ IMO Resolution A.707(17) Charges for Distress, Urgency and Safety Messages through the Inmarsat System (Adopted on 6 November 1991) describes which GMDSS communications are chargeable and which are not. Most are chargeable.

would stop once a non-LRIT charge is incurred⁸ . GMDSS services are similarly affected, with all safety and urgency communications barred once a charge is incurred. Only GMDSS distress services, which include distress alerting either ship to shore or presumably shore to ship, and presumably receipt of maritime safety information (i.e. enhanced group calling SafetyNET) will continue to be offered as a free service even if a given terminal is barred.

Since the FCC is the accounting authority of last resort in the U.S., until now it has been permissible to specify the FCC as accounting authority when commissioning an Inmarsat satellite terminal, even without prior notice to the FCC and without any formal contract. Consequently, only Inmarsat would know who the affected terminal owners are, and the FCC would need Inmarsat's assistance in notifying all affected terminal owners. Given these facts, it is critically important for the FCC to find appropriate means of communicating with all terminal owners to apprise them of the FCC's plans, and ensure that every terminal has some accounting authority in place before the FCC withdraws from its current role as accounting authority of last resort. The Coast Guard is willing to assist the FCC in these efforts.

The Inmarsat C maritime mobile satellite system has an inherent capability, known as Enhanced Group Call (EGC), which allows broadcast messages to be made to selected groups of ship stations located anywhere within a satellite's coverage. The FCC, working with Inmarsat, can consider employing this service to transmit information about the FCC's accounting authority plans directly to affected terminals, given the safety implications of the FCC's proposal.

In brief, the Coast Guard urges the FCC to reach out to all of its accounting authority users to notify them of these proposed changes, what the impact of these changes will be, and

⁸ Since LRIT terminals are commonly used for other purposes, use for non-LRIT purposes may not be an uncommon situation.

how any adverse consequences can be mitigated. Given the critical safety nature of these communications services, if the FCC is going to abandon its role as accounting authority of last resort, it should first ensure that it has a robust program in place for reaching out to the widest population of maritime users as possible. Affected users should be given sufficient time to contract with accounting authority services and perform the necessary recommissioning of their satellite terminals.

D. Government Agencies

Until now, the FCC has acted as accounting authority for the Coast Guard and other federal agencies. Consequently, the FCC has sought comment on whether Government agency users might have “special needs” that differ from other users, warranting different treatment. *FNPRM* at ¶¶ 11-12. The Coast Guard operates numerous mobile satellite terminals affected by this rulemaking.

The National Telecommunications and Information Administration (NTIA), in coordination with the Interdepartment Radio Advisory Committee (which includes the Coast Guard), previously expressed concern that the Commission’s withdrawal might lead to disruption or curtailment of communication services to federal users, as well as increased cost to the taxpayer. They requested that the FCC retain its accounting authority, or, in the alternative, noted that most government agencies operate on a three year budget cycle, and asked that the FCC defer termination of its accounting authority responsibility “until an [sic] alternative billing and payment arrangements ensuring uninterrupted service can be established. *Id.* at ¶ 12. NTIA further urged that the FCC either retain its accounting authority, or designate an authority of last resort that would “not charge more than the Commission currently charges its accounts until users are notified and given a chance to select their own accounting authority or accept the terms

offered.” *Id.*

The Coast Guard appreciates the FCC’s government outreach efforts and has been apprised by the FCC of its renewed efforts to withdraw as accounting authority of last resort. The Coast Guard agrees that, as part of an effective plan for the Commission to withdraw as an accounting authority, U.S. Government agencies, and the public, should be given at least one year to put in place arrangements with another accounting authority prior to the Commission’s withdrawal.

The Coast Guard also recommends that the FCC employ the same notification and transition period for everyone; there should not be one transition period for government agencies and a different one for the public. Multiple transition periods will only create additional administrative and operational problems for service providers and accounting authorities.

CONCLUSION

The Coast Guard encourages the FCC to ensure that all mariners that will be impacted by this regulatory proposal receive actual notice of the FCC's plan to withdraw from its current role as accounting authority of last resort, explaining the impact of that withdrawal in clear terms, and explain the steps they must take to address their particular situation. Should the FCC adopt its proposal, the Coast Guard will assist in any way practical to preserve and protect maritime safety.

Respectfully submitted,

U.S. COAST GUARD

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